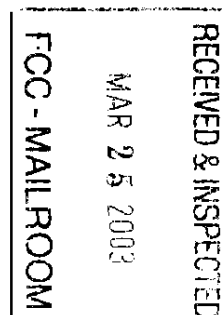DOCKET FILE COPY ORIGINAL
Federal Communications Commission
Washington, D.C. 20554

March 19. 2002

Mr. David E. Windhorst, III
2121 University Avenue
San Diego. California 92104

Dear Mr. Windhorst:

This is in response to your request, dated November 26, 2002, for the allotment of Channel 285A (3 kW) near San Clemente, California.
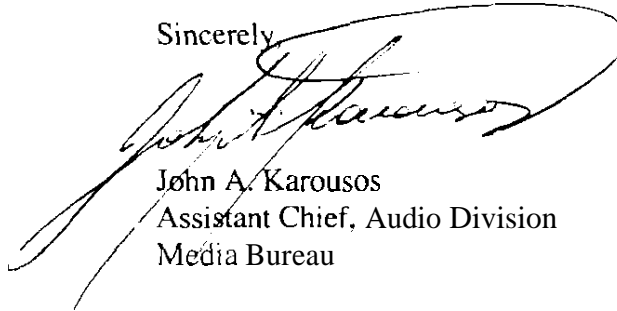
Your request is procedurally and technically defective and unacceptable for consideration at this time. First, the Commission no longer entertains requests for Class A facilities operating at **3 kW**. All Class A allotments are now made for facilities to operate at **6kW.** Second. in order for the Commission to consider your request, you must file a petition to institute a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. The petition for rule making must include a technical showing to demonstrate that the proposal is consistent with Sections 73.207(b)(1) and 73.315 of the Commission's Rules.

Section 1.52 of the Commission's Rules, requires that the original of any document filed with the Commission by a party not represented by counsel be signed and verified by the party and his/her address stated. If represented by counsel, it must be signed by at least one counsel of record in his individual name. In the absence of such filing, a pleading may be returned as unacceptable. Section 1.401(b) of the Rules concerning rule making proceedings places petitioners on notice that their proposals must conform with the requirements of Section **1.52** regarding subscription and verification. *See also Amendment of Sections **1.420 and 73.3584 of the** Commission's **Rules** Concerning Abuses of the Commission's **Processes,** 5 FCC Rcd 3911, 3919, n.41 (1990).

Lastly, in accordance with the requirements of Section 1.420 of the Commission's Rules, a signed original and four copies of each petition for rule making must be filed with the Office of the Secretary, Federal Communications Commission. 445 12th Street, S.W., TW-A325. Washington, D.C. 20554.

For the reasons stated above, we are returning your request for a FM commercial Class **A** (3 KW) allotment near San Clemente, California. If you wish to pursue your proposal, you may resubmit it in accordance with the requirements of Sections 1.52, 1.420, 73.207(b)(1) and 73.315 of the Commission's Rules.

Sincerely,

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

Enclosures

November 26, 2003

From: Mr. David E. Windhorst II
To: Federal Communications Commission

Subject: Petition for FM Frequency Allotment

In accordance with FCC regulations, I hereby request petition **for** the allotment of **a** frequency for an FM Commercial Class **A** (3 kW) construction permit on 104.9 MHz at 33.26.38N and 117.35.17W.
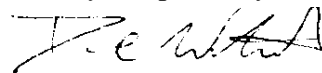
The above location is at least 74 km from the nearest Class B license (which is 2 channels away at 105.3 MHz) and at least 74 km from the nearest Class A license (which is 3 channels away at 105.5 MHz). There are no Class C stations within 3 adjacent channels and within 94 km radius of the requested authorization. All distances coincide with FM Station Separation Requirements to Mexico (47 CFR Section 73.207).

> [74.15 km away: channel 287, 105.3 MHz, class B. fac. ID 13504, CITICASTERS LICENSES INC.]

> [74.68 km away: channel 288, 105.5 MHz, class **A**, fac. ID 34386, LBI RADIO LICENSE CORP.]

1. Community of License: nearest San Clemente, CA (rural)
2. The frequency and channel: 104.9 MHz / Channel 285
3. Longitude and latitude coordinates for the proposed allotment:
   33.26.38N and 117.35.17W / nearest San Clemente, CA
4. **If** the proposed channel is allocated I will immediately submit electronic FCC form 301 to request a construction permit for a Class **A** Licensed Commercial FM station that will promote the unique **art** of the local Southern California musicians.

Very Respectfully,

D. E. WINDHORST II

David Eric Windhorst II
2121 University Ave.
San Diego, CA 92104
(619)269-6956
(619)675-6258
davideric2@yahoo.com

FCC Registration Number (FRN): 0007-8917-16